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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 120416010-2476-01]

RIN 0648-XG905

**Pacific Island Fisheries; Closure of the 2019 Hawaii
Shallow-set Pelagic Longline Fishery**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; fishery closure.

SUMMARY: This final rule closes the Hawaii shallow-set pelagic longline fishery north of the Equator for all vessels registered under the Hawaii longline limited access program. The shallow-set fishery has reached the annual limit of 17 physical interactions with North Pacific loggerhead sea turtles, so NMFS must close the fishery for the remainder of the calendar year, or until further notice. This action is necessary to comply with regulations that establish maximum annual limits on the numbers of interactions that occur between longline fishing gear and sea turtles.

DATES: Effective [*Insert date of filing for public inspection with the Office of the Federal Register*], through December 31, 2019. Compliance date: 9:50 a.m. Hawaii-Aleutian Standard Time (HST) on March 19, 2019, through December 31, 2019.

FOR FURTHER INFORMATION CONTACT: Bob Harman, NMFS Pacific Islands Regional Office, 808-725-5170.

SUPPLEMENTARY INFORMATION: NMFS manages the shallow-set pelagic longline fishery for swordfish in the Pacific Islands according to the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific Region (FEP), developed by the Western Pacific Fishery Management Council, and implemented by NMFS under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FEP appear at 50 CFR part 665 and at subpart H of 50 CFR part 600.

The regulations at § 665.813(b)(1) establish maximum annual limits on the numbers of physical interactions that occur between longline fishing gear and sea turtles. These limits apply to physical interactions with vessels registered with Hawaii longline limited access permits while engaged in shallow-set longline fishing, *i.e.*,

fishing that is directed at swordfish. There are two calendar-year annual limits on physical interactions: 26 leatherback sea turtles (*Dermochelys coriacea*), and 17 loggerhead sea turtles (*Caretta caretta*). Scientific observers, placed by NMFS aboard every vessel engaged in shallow-set longline fishing, monitor interactions with turtles.

The regulations at § 665.813(b) (2) require NMFS to close the shallow-set fishery as soon as the interaction limit for either of the two turtle species has been determined to have been reached in a given year, after giving permit holders and operators actual notice of the closure. Upon receiving actual notice from NMFS, fishermen are required to immediately remove all longline fishing gear from the water. Once the fishery is closed, all vessels registered under Hawaii longline limited-access permits are prohibited from shallow-set longline fishing north of the Equator.

In accordance with § 665.813(b) (2), the Regional Administrator, NMFS Pacific Islands Region, has determined that the fishery has reached the annual interaction limit of 17 North Pacific loggerhead turtles. Consequently, NMFS closed the shallow-set component of the Hawaii-based

longline fishery at 9:50 a.m. HST on March 19, 2019. The closure ends at midnight HST on December 31, 2019.

NMFS is currently preparing a biological opinion that addresses the continued operation of the shallow-set longline fishery, which may result in changes to the current annual interaction limits. NMFS would publish any changes in a future rulemaking.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this final rule is consistent with the Magnuson-Stevens Act, the Endangered Species Act, and other applicable laws.

This final rule is required by § 665.813(b)(2) and is exempt from review under Executive Order 12866.

NMFS has good cause under the Administrative Procedure Act (5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3)) to waive prior notice and an opportunity for public comment, and the 30 days delayed effectiveness, for this temporary rule, as prior notice and comment would be contrary to the public interest. NMFS must implement the closure of the fishery immediately to prevent further impacts to North Pacific loggerhead sea turtles. In addition, providing prior notice and comment and 30 days delayed effectiveness are

unnecessary because NMFS has no discretion to take other action because such action would be inconsistent with Federal regulations.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 22, 2019.

Jennifer M. Wallace,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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